

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte NEWTON B. WHITE, JR.

Application 09/381,742

MAILED

DEC 15 2005

PAT. & T.M OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on October 19, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing are identified below.

An Examiner's Answer was mailed on September 20, 2004. However, the appeal conference is improper. Section 1208 of the Manual of Patent Examining Procedure (MPEP) (8th Ed., August 2001) states:

APPEAL CONFERENCE

An appeal conference is mandatory in all cases in which an acceptable brief (MPEP § 1206) has been filed. . . .

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. . . . If the examiner's answer does not contain the appropriate a indication that an appeal conference has been held (i.e., including the names of the conferees and identifying themselves as the conferees along with their initials), the Board should return the application directly to the appropriate Technology Center (TC) Director for corrective action. . . . This procedure applies to all examiner's answers received by the Board on or after November 1, 2000.

The Examiner's Answer mailed on September 20, 2004, is deficient in that there is not evidence that an appeals conference has been held.

Accordingly, it is ORDERED that the application is return to the Examiner:

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- 1) for taking corrective action regarding the appeals conference; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCE



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